

(f) *With the exception of information that is confidential under Chapter 552, including Section 552.139, or other state or federal law, the consolidated report submitted under Subsection (d) is public information and must be released or made available to the public on request. A governmental body as defined by Section 552.003 may withhold information confidential under Chapter 552, including Section 552.139, or other state or federal law that is contained in a consolidated report released under this subsection without the necessity of requesting a decision from the attorney general under Subchapter G, Chapter 552.*

(g) *This section does not apply to an institution of higher education or university system, as defined by Section 61.003, Education Code.*

SECTION 3. Section 2054.0965(a), Government Code, is amended to read as follows:

(a) Not later than *March 31* ~~[December 1]~~ of each *even-numbered* ~~[odd-numbered]~~ year, a state agency shall complete a review of the operational aspects of the agency's information resources deployment following instructions developed by the department.

SECTION 4. Section 2157.007, Government Code, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

(b) A state agency *shall* ~~[may]~~ consider cloud computing service options, including any *security benefits and cost savings* associated with purchasing those service options *from a cloud computing service provider and from a statewide technology center established by the department*, when making purchases for a major information resources project under Section 2054.118.

(e) *Not later than November 15 of each even-numbered year, the department, using existing resources, shall submit a report to the governor, lieutenant governor, and speaker of the house of representatives on the use of cloud computing service options by state agencies. The report must include use cases that provided cost savings and other benefits, including security enhancements. A state agency shall cooperate with the department in the creation of the report by providing timely and accurate information and any assistance required by the department.*

SECTION 5. Sections 552.139(b)(4) and (b-1), Government Code, as added by this Act, apply only to a request for public information received on or after the effective date of this Act. A request received before the effective date of this Act is governed by the law in effect when the request was received, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2017.

Passed the Senate on April 3, 2017: Yeas 31, Nays 0; the Senate concurred in House amendments on May 26, 2017: Yeas 31, Nays 0; passed the House, with amendments, on May 19, 2017: Yeas 144, Nays 0, two present not voting.

Approved June 9, 2017.

Effective September 1, 2017.

GOVERNMENTAL ENTITY CONTRACTING AND PROCUREMENT

CHAPTER 556

S.B. No. 533

AN ACT

relating to governmental entity contracting and procurement.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 572.069, Government Code, is amended to read as follows:

Sec. 572.069. CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER OR EM-

EMPLOYEE RESTRICTED. A former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the *contract is signed or the procurement is terminated or withdrawn* ~~[officer's or employee's service or employment with the state agency ceased]~~.

SECTION 2. Section 2054.1181(a), Government Code, is amended to read as follows:

(a) *At the direction of the governor, lieutenant governor, or speaker of the house of representatives* ~~[The quality assurance team, in coordination with the governor, may recommend major information resources projects to the department for oversight. As part of this oversight]~~, the department shall provide *additional oversight services for major information resources projects, including risk management, quality assurance services, independent project monitoring, and project management.* A state agency with a project selected for oversight shall pay for oversight by the department and quality assurance team based on a funding model developed by the department. *The department may contract with a vendor to provide the necessary oversight at the department's direction.*

SECTION 3. Section 2054.158, Government Code, is amended to read as follows:

Sec. 2054.158. QUALITY ASSURANCE TEAM; DUTIES. (a) The *comptroller*, state auditor, Legislative Budget Board, and department shall:

- (1) create a quality assurance team to perform the duties specified in this chapter and other law; ~~[and]~~
- (2) specify in writing the responsibilities of the *comptroller*, state auditor, Legislative Budget Board, and department in performing the duties; *and*
- (3) *create an automated project review system.*

(b) The quality assurance team shall:

- (1) develop and recommend policies and procedures to improve state agency information resources technology projects; ~~[and]~~
- (2) develop and recommend procedures to improve the implementation of state agency information resources technology projects by including considerations for best value and return on investment; *and*
- (3) *provide annual training for state agency procurement and contract management staff on best practices and methodologies for information technology contracts.*

(c) *The state auditor serves on the quality assurance team as an advisor.*

SECTION 4. Section 2054.303(a), Government Code, is amended to read as follows:

(a) For each proposed major information resources project or major contract, a state agency must prepare:

- (1) a business case providing the initial justification for the project or contract, including the anticipated return on investment in terms of cost savings and efficiency for the project or contract; ~~[and]~~
- (2) a statewide impact analysis of the project's or contract's effect on the state's common information resources infrastructure, including the possibility of reusing code or other resources; *and*
- (3) *in consultation with the department, a technical architectural assessment of the project or contract.*

SECTION 5. Section 2054.304, Government Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) *In each project plan for a major information resources project, the state agency shall consider incorporating into the project the applicable best practices recommended in the quality assurance team's annual report.*

(e) *A state agency contract for a major information resources project must comply with the requirements in the comptroller's contract management guide developed under Section 2262.051.*

SECTION 6. Subchapter B, Chapter 2155, Government Code, is amended by adding Sections 2155.090 and 2155.091 to read as follows:

Sec. 2155.090. VENDOR AND EMPLOYEE INTERACTION AND COMMUNICATION POLICY. (a) The comptroller shall update a contract management guide to include policies on the interactions and communication between employees of the state agency and a vendor that contracts with the state agency or seeks to conduct business with the state agency.

(b) This subtitle does not prohibit the exchange of information between a state agency and a vendor related to future solicitations or as necessary to monitor an existing contract.

Sec. 2155.091. CHIEF PROCUREMENT OFFICER: POWERS AND DUTIES. (a) The comptroller shall employ a chief procurement officer to serve as the chief procurement officer for this state.

(b) The chief procurement officer has authority over state agency procurement, including the authority to:

- (1) analyze state purchasing data to leverage state purchasing power;*
- (2) provide functional support to state agencies;*
- (3) provide training on state purchasing and contract management;*
- (4) review major contract solicitations for information technology projects monitored by the quality assurance team under Section 2054.158;*
- (5) review solicitations for major contracts reviewed by the Contract Advisory Team under Section 2262.101;*
- (6) delegate to a state agency authority to contract for the purchase of a good or service valued in an amount specified by comptroller rule; and*
- (7) provide leadership on procurement issues.*

(c) A state agency shall comply with any request for information from the chief procurement officer necessary to conduct the analysis authorized by Subsection (b)(1).

(d) The chief procurement officer shall coordinate with the Department of Information Resources and the quality assurance team to conduct a contract solicitation review required by Subsection (a)(4) and make appropriate recommendations to the comptroller and legislature based on the review. This section grants the chief procurement officer authority only to review a contract solicitation. The Department of Information Resources or the appropriate state agency retains the authority to award a statewide information resources contract as authorized by law.

(e) The chief procurement officer shall coordinate with the Contract Advisory Team to conduct the review required by Section 2262.101. A state agency shall comply with any request for information by the chief procurement officer that is necessary to conduct the review.

SECTION 7. Subchapter D, Chapter 2155, Government Code, is amended by adding Section 2155.205 to read as follows:

Sec. 2155.205. INTERSTATE PURCHASING. (a) Subject to Section 2156.181 or other law, the comptroller may enter into agreements to authorize state agencies and political subdivisions of other states to purchase goods or services through comptroller contracts.

(b) The comptroller may charge a reasonable administrative fee to state agencies and political subdivisions of other states that purchase a good or service under this section.

SECTION 8. Sections 2157.068(e-1) and (e-2), Government Code, are amended to read as follows:

(e-1) A state agency contracting to purchase a commodity item shall use the list maintained as required by Subsection (e) as follows:

- (1) for a contract with a value of \$50,000 or less, the agency may directly award the contract to a vendor included on the list without submission of a request for pricing to other vendors on the list;*

(2) for a contract with a value of more than \$50,000 but not more than \$1 million [~~\$150,000~~], the agency must submit a request for pricing to at least three vendors included on the list in the category to which the contract relates; and

(3) for a contract with a value of more than \$1 million [~~\$150,000~~] but not more than \$5 [~~\$1~~] million, the agency must submit a request for pricing to at least six vendors included on the list in the category to which the contract relates or all vendors on the schedule if the category has fewer than six vendors.

(e-2) A state agency may not enter into a contract to purchase a commodity item if the value of the contract exceeds \$5 [~~\$1~~] million.

SECTION 9. Section 2261.252, Government Code, is amended by adding Subsections (a-1), (e), and (f) to read as follows:

(a-1) A state agency employee or official is required to disclose under Subsection (a) any potential conflict of interest specified by state law or agency policy that is known by the employee or official at any time during:

(1) the procurement process, from the initial request for bids for the purchase of goods or services from a private vendor until the completed final delivery of the goods or services; or

(2) the term of a contract with a private vendor.

(e) This section applies only to a contract for the purchase of goods or services solicited through a purchase order if the amount of the purchase order exceeds \$25,000.

(f) Section 51.923, Education Code, governs the conflicts of interest of the members of the governing board of an institution of higher education, as those terms are defined by Section 61.003, Education Code, and this section does not apply to those members.

SECTION 10. Section 2261.253, Government Code, is amended by adding Subsections (e), (f), (g), and (h) to read as follows:

(e) A state agency that posts a contract on its Internet website as required under this section shall redact from the posted contract:

(1) information that is confidential under law;

(2) information the attorney general determines is excepted from public disclosure under Chapter 552; and

(3) the social security number of any individual.

(f) The redaction of information under Subsection (e) does not exempt the information from the requirements of Section 552.021 or 552.221.

(g) Subsection (a) does not apply to:

(1) a contract posted on the major contracts database established under Section 322.020; or

(2) a contract of an institution of higher education that is valued at less than \$15,000 and paid with money other than funds appropriated to the institution by this state.

(h) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code, except that the term does not include a public junior college.

SECTION 11. Section 2262.101(a), Government Code, is amended to read as follows:

(a) The Contract Advisory Team is created to assist state agencies in improving contract management practices by:

(1) reviewing and making recommendations on the solicitation documents and contract documents for contracts of state agencies that have a value of at least \$5 [~~\$10~~] million;

(2) reviewing any findings or recommendations made by the state auditor, including those made under Section 2262.052(b), regarding a state agency's compliance with the contract management guide;

(3) providing recommendations to the comptroller regarding:

- (A) the development of the contract management guide; and
- (B) the training under Section 2262.053;
- (4) providing recommendations and assistance to state agency personnel throughout the contract management process;
- (5) coordinating and consulting with the quality assurance team established under Section 2054.158 on all contracts relating to a major information resources project;
- (6) developing and recommending policies and procedures to improve state agency contract management practices;
- (7) developing and recommending procedures to improve state agency contracting practices by including consideration for best value; and
- (8) creating and periodically performing a risk assessment to determine the appropriate level of management and oversight of contracts by state agencies.

SECTION 12. Section 2262.102, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The chief procurement officer described by Section 2155.091 may add members to the team by designating members from state agencies that agree to participate on the team. A state agency may decline a request to participate on the team under this subsection by submitting a written statement declining the request to the chief procurement officer.

SECTION 13. Section 2269.056(b), Government Code, is amended to read as follows:

(b) The governmental entity shall base its selection among offerors on applicable criteria listed for the particular method used. The governmental entity shall publish in the request for proposals or qualifications:

- (1) the criteria that will be used to evaluate the offerors;
- (2) ~~[-and]~~ the applicable weighted value for each criterion; *and*
- (3) *for state agencies, a detailed methodology for scoring each criterion.*

SECTION 14. Section 2269.361(a), Government Code, is amended to read as follows:

(a) A governmental entity shall request proposals from design-build firms identified under Section 2269.359(c). *A response to a request for detailed proposals must be submitted on or before the earlier of the time for submission requested by the governmental entity or* ~~[firm must submit a proposal not later than]~~ the 180th day after the date the governmental entity makes a public request for the proposals from the selected firms. The request for proposals must include:

- (1) a design criteria package;
- (2) if the project site is identified, a geotechnical baseline report or other information that provides the design-build firm minimum geotechnical design parameters to submit a proposal;
- (3) detailed instructions for preparing the technical proposal and the items to be included, including a description of the form and level of completeness of drawings expected; and
- (4) the relative weighting of the technical and price proposals and the formula by which the proposals will be evaluated and ranked.

SECTION 15. Subchapter A, Chapter 8, Education Code, is amended by adding Section 8.012 to read as follows:

Sec. 8.012. CONTRACT MANAGEMENT GUIDE. The agency shall comply with the comptroller's contract management guide developed under Section 2262.051, Government Code, in each contract between the agency and a regional education service center established under this chapter.

SECTION 16. Section 51.923(e), Education Code, is amended to read as follows:

(e) For purposes of this section, a member of a governing board has a substantial interest in a business entity if:

(1) the member owns *one* [10] percent or more of the voting stock or shares of the business entity or owns either *one* [10] percent or more or \$15,000 or more of the fair market value of the business entity;

(2) funds received by the member from the business entity exceed *one* [10] percent of the member's gross income for the previous year;

(3) the member is an officer of the business entity or a member of the governing board of the business entity; or

(4) an individual related to the member in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has an interest in the business entity as described by Subdivision (1), (2), or (3).

SECTION 17. (a) Not later than January 1, 2018, the comptroller shall:

(1) employ a chief procurement officer as required by Section 2155.091, Government Code, as added by this Act; and

(2) adopt any rules necessary to implement the changes in law made by this Act.

(b) Not later than January 1, 2018, each state agency shall adopt a vendor and employee interaction and communication policy as required by Section 2155.090, Government Code, as added by this Act.

(c) The changes in law made by this Act apply only in relation to a contract for which a state agency first advertises or otherwise solicits bids, proposals, offers, or qualifications on or after the effective date of this Act.

(d) Notwithstanding the other provisions of this Act, Section 2269.361(a), Government Code, as amended by this Act, applies to a contract entered into on or after the effective date of this Act and for which a bid or other solicitation response was submitted after June 21, 2017.

(e) Notwithstanding the other provisions of this Act, Section 51.923, Education Code, as amended by this Act, applies only to a contract or other transaction entered into on or after the effective date of this Act. A contract or other transaction entered into before the effective date of this Act is governed by the law in effect on the date on which the contract or other transaction was entered into, and the former law is continued in effect for that purpose.

SECTION 18. This Act takes effect September 1, 2017.

Passed the Senate on April 20, 2017: Yeas 31, Nays 0; May 19, 2017, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2017, House granted request of the Senate; May 28, 2017, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0; passed the House, with amendments, on May 17, 2017: Yeas 139, Nays 0, two present not voting; May 22, 2017, House granted request of the Senate for appointment of Conference Committee; May 28, 2017, House adopted Conference Committee Report by the following vote: Yeas 144, Nays 2, one present not voting.

Approved June 9, 2017.

Effective September 1, 2017.

REQUIRING THE DISCLOSURE OF SPECIAL COURSE FEES AT PUBLIC INSTITUTIONS OF HIGHER EDUCATION

CHAPTER 557

S.B. No. 537

AN ACT

relating to requiring the disclosure of special course fees at public institutions of higher education.